



ARKANSAS JUDICIARY

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## Rule 16. Pretrial Procedure; Formulated Issues.

In any action, the court may in its discretion direct the attorneys for the parties to appear before it for a conference to consider:

- (1) The simplification of issues;
- (2) The necessity or desirability of amendments to the pleadings;
- (3) The possibility of obtaining admissions of act and of documents which will avoid unnecessary proof;
- (4) The limitation of the number of expert witnesses;
- (5) The advisability of a preliminary reference of issues to a master;
- (6) The possibility of settlement or, pursuant to Ark. Code Ann. 16-7-202, the use of extrajudicial procedures, including mediation, to resolve the dispute;
- (7) Such other matters as may aid in the disposition of the action.

The court shall make an order which recites the action taken at the conference, the amendments allowed to the pleadings and the agreements made by the parties as to any of the matters considered and which limits the issues for trial to those not disposed of by admissions or agreements of counsel; and such order, when entered, controls the subsequent course of the action, unless modified at the trial to prevent manifest injustice. The court in its discretion may establish by rule a pre-trial calendar on which actions may be placed for consideration as above provided and may either confine the calendar to jury actions or to non-jury actions or extend it to all actions.

Reporter's Notes to Rule 16: - 1. Rule 16 is essentially the same as FRCP 16. The only change from the Federal Rule is found in Section (5). Under Rule 53, a master is not permitted in jury actions; hence, the minor wording change. This rule is substantially the same as superseded Ark. Stat. Ann. 27-2401 (Repl. 1962), which was patterned after FRCP 16.

2. Omitted from Rule 16 is Section (d) of Ark. Stat. Ann. 27-2401 (Repl. 1962). Motions or applications for the production of documents are matters which should be considered under Rule 34. Also, any unresolved questions concerning documents may be considered by the court and the parties under Rule 16 (3). Overall, this rule should have little effect on prior Arkansas law.

Addition to Reporter's Notes, 1997 Amendment: - Former paragraph (6) has been redesignated as paragraph (7) and a new paragraph (6) added to mention the possibility of settlement and the use of extrajudicial procedures, such as mediation. The amended rule, based on a similar provision in the Alabama Rules of Civil Procedure, recognizes that pretrial conferences can be profitably used to discuss settlement. Since it eases congested court dockets and results in savings to litigants and the judicial system, settlement should be facilitated at as early a stage in the litigation as possible. However, settlement conferences

are not mandatory and would be a waste of time in many cases. In addition to settlement, paragraph (6) refers to exploring the use of alternative means of dispute resolution, such as mediation, in accordance with Ark. Code Ann. 16-7-202.

**History Text:**

History. Amended November 18, 1996, effective March 1, 1997

**Associated Court Rules:**

Rules of Civil Procedure

**Group Title:**

III. Pleadings and Motions

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